

1983

May 19

FTC Press Release and the related publication of announcement in the May 23 issue of the Federal Register, which makes it completely clear that the "tar", nicotine and CO values for Barclay are deleted from both the March 1983 and the December 1981 official reports of the FTC, which list these values for all US cigarette brands.

June 24

US Court of Appeals for the Sixth Circuit ruled in favour of the FTC. The Court issued its decision on the merits in favour of the FTC and unsealed the administrative record and the record of other documents which the FTC had filed with the lower Federal District Court.

The court indicated that the FTC had acted appropriately in reaching and issuing its decision of June 25 1982.

" The FTC did not act arbitrarily. The conclusions of the three experts are consistent and clear. All three experts reviewed the extensive materials filed by the companies and weighed the persuasiveness of the methodologies utilized in the studies. Faced with such overwhelming evidence that Barclay was innacurately being reported as a 1 mg "tar" cigarette, the FTC appropriately took action to halt the dissemination of misleading and incorrect statistics to the public".

May 30

Barclay advertisements carry a change in text qualifying the T&N figures. New text: "av per cigarette by a recognized method used by B&W and supported by independent laboratories"

Before this was: "av per cigarette, FTC report...", with reference to latest FTC report.

First indication to show that B&W were making some changes with respect to the advertising of Barclay in response to governmental (FTC) action. However, the claim "99% tar free" remained unchanged.

July 7

FTC authorizes its staff to seek preliminary and permanent injunctions banning B&W from claiming that Barclay delivers only 1 mg "tar", and is 99% "tar" free - unless an FTC-approved rating is disclosed in the advertisement. And until the FTC has approved such a rating, B&W would be permitted to use a rating for Barclay 80's and 85's of: "3 to 7 mg "tar" (estimate)". The Commission voted 4-0 to seek the injunction. Commissioner Pertschuck issued a separate statement that said in his view the "proposed relief" did not go far enough. And that "corrective advertising" mandating disclosure of the higher tar content of Barclay cigarettes in all Barclay ads, regardless of the claims made, may be necessary .

July 25

Judge Gezell of the Federal District Court in Washington DC has scheduled hearings beginning September 12 on the request for injunctions filed by the FTC. 4 days have been set aside for these.

News received that B&W has filed with the Sixth Circuit Court of Appeals for a re-hearing of the decision announced June 24.

This has the effect of B&W being able to claim that this June 24 decision is not final and further judicial consideration of the case has been requested by them

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BARCLAY IN THE USA

1982

- June 25 FTC issues statement of objections.
 A statement of the issue, and a chronological history of their
 investigations June 3 1981 - June 1 1982

 FTC WATCH and FTC NEWS of June 25 announce the FTC decision to
 delist Barclay cigarettes from official tar and nicotine reports
 and threaten action if test reports are used in advertising
- June 25 B&W obtains an injunction in the Federal District Court of
 Louisville, Kentucky - a temporary restraining order on the
 FTC. Hearing set for July 23.
- July 23 District Judge Thomas A. Ballantine deferred ruling on B&W's
 motion for a preliminary injunction against the FTC for a further
 30 - 45 days
- Sept 27 Judge Ballantine rules in favour of FTC. B&W immediately filed
 notice of appeal with the US Court of Appeals for the Sixth Circuit.
 Judge Ballantine agreed to grant a renewed stay of FTC action to
 allow time for B&W's appeal.
- 1983
- April 1 After oral arguments on March 22, the US Court of Appeals for the
 Sixth Circuit ordered the stay to be lifted with the exception of
 the District Court's seal on all documents.
- April 13 FTC issue press release FTC NEWS as a result of the Stay being lifted
 which stated:
- the FTC has determined that Barclay delivers more "tar", nicotine
 and CO than the FTC's current testing programme now indicates.
 Independent consultants believe Barclay 80's and 85's, which the
 current method ranks as 1mg "tar", actually rank from 3 to 7
 mgs "tar"
 - the FTC seeks public comment on possible new testing procedures

With the FTC NEWS was a document "Announcement of Commission
Determination, Amendment of Past Report and Request for Comment
on Possible Testing Modifications"

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